

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

Nos. C 13-5948 CW
C 14-0797 CW
C 14-1527 CW
C 14-1528 CW

In re:

Robert Franklin Van Zandt,
Debtor.

Bk. Nos. 12-32655-HLB
12-03184-HLB

ORDER DISMISSING APPEALS

Debtor Robert Franklin Van Zandt has filed at least ten separate appeals challenging orders of the Bankruptcy Court. The Court previously dismissed two of those appeals, which were appeals from interlocutory orders denying motions to dismiss two separate adversary cases in the Bankruptcy Court. See Case Nos. 13-1513 and 13-1888. The Court also affirmed the decisions of the Bankruptcy Court and denied the motion to withdraw the reference in four other cases. See Case Nos. 13-0702; 13-1568; 13-2765; and 13-4200. The Court now dismisses four other appeals of interlocutory orders.

LEGAL STANDARD

District courts have the discretion to grant leave to appeal interlocutory bankruptcy court orders and may consider a notice of appeal as a motion for leave to appeal. 28 U.S.C. § 158(3); Fed. R. Bankr. P. 8003(c). In considering whether leave should be

1 granted, the Court will look to 28 U.S.C. § 1292(b). In re Betta
2 Prods., 2007 U.S. Dist. LEXIS 81621 at *3; In re Sperna, 173 B.R.
3 654, 658 (9th Cir. BAP 1994). Pursuant to that section, review of
4 an interlocutory order is appropriate when

5 such order involves a controlling question of law as to
6 which there is substantial ground for difference of
7 opinion and that an immediate appeal from the order may
materially advance the ultimate termination of the
litigation.

8 28 U.S.C. § 1292(b).

9 DISCUSSION

10 Case Number 13-5948 involves the appeal of the Bankruptcy
11 Court's order compelling Debtor to appear for a deposition in the
12 adversary proceeding brought by William Parisi. The order
13 compelling Debtor to appear for a deposition is an interlocutory
14 order. See In re Rogue, 2014 Bankruptcy LEXIS 424, *15 (9th Cir.
15 BAP). The Court finds that an appeal from the Bankruptcy Court's
16 order compelling Debtor to appear for a deposition fails to meet
17 the standard set out in § 1292(b). The Court construes Debtor's
18 notice of appeal in Case Number 13-5948 to be a motion for leave
19 to appeal an interlocutory order and denies the motion. For the
20 same reasons, the Court GRANTS Appellee William Parisi's motion to
21 dismiss the appeal. Docket No. 10. Accordingly, the Court
22 DISMISSES Case Number 13-5948.

23 Case Number 14-797 involves the appeal of two orders in the
24 same adversary proceeding by Parisi against Debtor: (1) the
25 Bankruptcy Court's order denying Debtor's "Motion to Obtain Orders
26 Recognizing that the Order Compelling Defendant to Appear for
27 Deposition is Void as a Matter of Law and an Additional Order
28 Quashing Subpoena" and (2) the Bankruptcy Court's order granting

1 Parisi's motion to compel Debtor's deposition and for sanctions.
2 These orders are interlocutory orders, appeals from which do not
3 meet the standard set out in § 1292(b). See In re Markus, 313
4 F.3d 1146, 1151 (9th Cir. 2002). The Court construes Debtor's
5 notice of appeal in Case Number 14-0797 to be a motion for leave
6 to appeal interlocutory orders and denies the motion.
7 Accordingly, the Court DISMISSES Case Number 14-0797.

8 Case Number 14-1527 involves an order to show cause regarding
9 contempt entered by the Bankruptcy Court. An order to show cause
10 is an interlocutory order. The Court finds that an appeal from
11 the order does not meet the standard set out in § 1292(b). The
12 Court construes Debtor's notice of appeal in Case Number 14-1527
13 to be a motion for leave to appeal interlocutory orders and denies
14 the motion. Accordingly, the Court DISMISSES Case Number 14-1527.

15 Case Number 14-1528 involves the Bankruptcy Court's order
16 imposing civil sanctions against Debtor for violation of the
17 Bankruptcy Court's order. An order of civil contempt entered
18 against a party to ongoing litigation is an interlocutory order.
19 See In re Mack, 2007 Bankruptcy LEXIS 4833, *9 (9th Cir. BAP).
20 The Court finds that an appeal from the order does not meet the
21 standard set out in § 1292(b). The Court construes Debtor's
22 notice of appeal in Case Number 14-1528 to be a motion for leave
23 to appeal interlocutory orders and denies the motion.
24 Accordingly, the Court DISMISSES Case Number 14-1528.

25 CONCLUSION

26 For the reasons stated above, the Court dismisses the
27 following appeals, 13-5948; 14-0797; 14-1527; and 14-1528. In
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1 addition, the Court GRANTS Parisi's motion to dismiss in Case
2 Number 13-5948 (Docket No. 10).

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4 IT IS SO ORDERED.

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6 Dated: 4/11/2014

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8 CLAUDIA WILKEN
9 United States District Judge
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United States District Court
For the Northern District of California